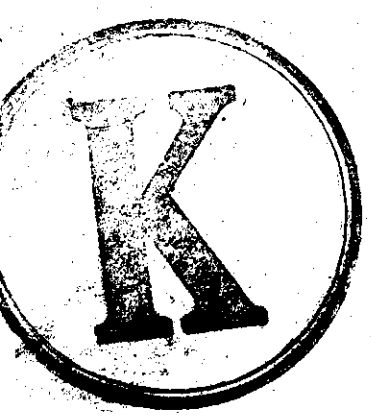

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File No. O Irrigation
Legal Department-50

BRANCH

Subject:— Opinions under the

Bomby Irrigation Act-

1879

Rule 31/6

O. Irrigations/50
File No.

667

C O N T E N T S

Legal Department File No. C.Irrigation/1950

Sr. No.	R.I. /C.No.	Subject	Pages.
	C. Irrigation 1950	Opinions under the Bombay Irrigation Act, 1879.	
1.	12474 31-8-50	Contribution to be paid by Inamdars in individual owners may be allowed to be raised from the tenant irrigators who might be quite willing to pay them off.---	1-3

DA/16
HJr/18/8
5 Ca.

The Bombay Tenancy Agricultural Lands Act.
Sec. 12

The assumption made by R.D. that section 84 to 86 of the Bombay Irrigation Act, 1879 would be available for enforcing the liability against the Inadmars or individual owners of tnaks for repairs does not appear to be correct. These provisions would apply only when Government has issued a notification under section 73 applying Part X of the Act and constituting the work into a minor irrigation work. No such notification appears to have been applied to the tanks which are proposed to be repaired under the scheme as sanctioned by Government in their circular No. 2356-48-II dated 26th May 1950. Consequently the solution offered by R.D. in this respect will be hardly tenable.

2. The Collector in his letter dated 6th June 1950 h proposed that "in the case of these minor irrigation works contributions to be paid by the indicidual owners of or, Inamdars might be allowed to be raised from tenant irrigators who might be quite willing to pay them off. Of course, the tenant irrigators need not pay for good, the Inamdar's or individual owner's contributions; they may recover them from the latter by a set-off against the rent due to them (latter) which should be authorized to be deducted at the time of granting assistance to the owners or Inamdars under sections 86-87 of the Land Revenue Code." With regard to this proposal of the Collector it may be stated that there is no objection to receiving costs of repairs from tenant irrigators provided such payments are willingly made. But the main difficulty would be of allowing the tenants to re-imburse out of the rent payable to their landlords. Section 86 and 87 of the Land Revenue Code which provide for giving assistance to the landlords for recovery of dues from inferior holders do not contain any provision allowing a set-off to be made in respect of repairs cafried out by them. The question as to who should bear the costs of repairs would be one of mutual

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agreement between the parties. Consequently, it wou d not be legally feasible under those provisions to authorize the tenants to deduct from their rents the costs of repairs paid by them. However, on the ground of these tenants having carried out the repairs or paid the costs of repairs it would be feasible for them to apply under section 12 of the Bombay Tenancy Agricultural Land Act for fixing reasonable rent and in so fixing, for taking in-to account the costs of repairs paid by them. By this process they would indirectly be entitled to re-imbursement of the costs of repairs.

Sd/- P.H.Lad
30/8

O.C.

Remembrancer of Legal Affairs.

U.O. to P.T.D. No. 12474, dated the 31st August 1950

DJR/16/6

4 Ts.